

"Better than national standards" (attainment).

EPA originally proposed disapproval for the redesignation of Blair, Bedford, and Centre counties to "unclassifiable/attainment" (50 FR 9694). However, based on its review of comments received from the Commonwealth of Pennsylvania, EPA has changed its position. A discussion of these comments and EPA's views on these comments follows.

#### Public Comments

In accordance with the redesignation criteria for ozone, on March 11, 1985, EPA proposed approval of four (4) counties with respect to ozone. Additionally, EPA proposed disapproval of the redesignation of three (3) counties in Pennsylvania with respect to ozone (Blair, Bedford, and Centre).

As a result of the notice of proposed rulemaking (50 FR 9694), the Commonwealth submitted comments on the proposed disapproval of the redesignation of Blair County and two (2) of its adjacent counties—Bedford and Centre. The Commonwealth pointed out that they had submitted the air quality data on daylight savings time as opposed to standard time. If the Commonwealth had reported the data on standard time, which is the way the EPA reports data, two (2) of the exceedances out of the four (4) recorded for Blair County would have occurred on the same day. Therefore, these two (2) exceedances should have been considered as one episode. Additionally, these exceedances occurred during the evening hours and, based on our knowledge of ozone formation, these results are anomalous. Hence, Blair County actually did not have more than one (1) exceedance of the ozone NAAOS per year, on the average, over the period 1982-1984 and consequently, should be redesignated attainment for ozone. Bedford and Centre counties were formerly designated nonattainment area because of their proximity to the then nonattainment area, Blair County. Bedford and Centre counties, being rural areas with no monitoring data, now adjacent to an attainment area (Blair County), should also be redesignated attainment for ozone. Therefore, EPA is now taking final approval action on redesignating all seven (7) areas to attainment.

The Commonwealth has agreed, in a letter dated July 30, 1985, to request a nonattainment designation for these counties if, at such time, Blair County is monitored nonattainment for ozone.

40 CFR Part 81 is being revised by

amending the chart, in § 81.339, for ozone.

#### Administrative Procedures

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by October 3, 1986. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2) of the Act).

#### List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated: July 28, 1986.

Lee M. Thomas,  
Administrator.

#### PART 81—[AMENDED]

40 CFR Part 81 is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. In § 81.339, Pennsylvania, the table entitled "Pennsylvania—Ozone (O<sub>3</sub>)" is amended by revising the following counties in entries IV, V and VI to read as follows:

#### § 81.339 Pennsylvania.

\* \* \* \* \*

Pennsylvania—Ozone (O<sub>3</sub>)

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
IV. Central Pennsylvania Intra-state AQCR:		
(A) Bedford County		X
(B) Blair County		X
(C) Cambria County		X
(D) Centre County		X
(E) Somerset County		X
V. Southwest Pennsylvania Intrastate AQCR:		
(G) Indiana County		X
VI. Northwest Pennsylvania Interstate AQCR:		
(C) Clearfield County		X

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Health Care Financing Administration

#### 42 CFR Part 405 and 482

[BERC-519-CN]

#### Medicare and Medicaid Programs; Conditions of Participation for Hospitals; Corrections

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule.

**SUMMARY:** This document corrects technical errors that appeared in the final rule published in the *Federal Register* on June 17, 1986 (51 FR 22010) on conditions of participation for hospitals under the Medicare and Medicaid programs.

**FOR FURTHER INFORMATION CONTACT:** Stanley Rosenfeld, (301) 594-5675.

In FR Doc. 86-13171 beginning on page 22010 in the issue of June 17, 1986, the following changes are made to correct technical errors and to conform legal citations and cross-references to redesignated sections of the law or regulations:

#### A. On page 22040

1. The heading, "§§ 405.1501 and 405.1502 [Amended]" is changed to read "§§ 405.1501, 405.1502, and 405.1505 [Amended]".

2. Under the heading "§ 405.1501 and 405.1502 [Amended]", in lines 6 and 9, "and" is changed to "or".

3. Under the heading "§ 405.1901 [Amended]", in line 8, "481" is changed to "491".

#### B. On page 22041

Under the heading "§ 405.1913 [Amended]", in lines 3 and 4, "§ 405.1137(a)" is changed to "§ 405.1137(d)".

#### C. On page 22042

1. In the authority citation following the table of contents for part 482, in line 1, "1814(a)(7)" is changed to "1814(a)(6)"; in line 3, "1902(a)(30)" is inserted after "1886," and before "and"; in line 4, "1395f(a)(7)" is changed to "1395f(a)(6)"; and in line 6, "1396a(a)(30)," is inserted after "1395ww," and before "and".

2. Under § 482.12(a)(1), in line 3, "partitioners" is changed to "practitioners".



*D. On page 22045*

Under § 482.25(b)(9), in line 3, "pharmaceutical" is changed to "pharmaceuticals".

*E. On page 22046*

1. Under § 482.26(b)(1), in line 6, "or" is changed to "of".

2. Under § 482.27(a)(3)(iii)(A), in lines 2 and 3, "American Board of Dermatology or American Board of Pathology" is changed to "American Board of Dermatology, the American Osteopathic Board of Dermatology, the American Board of Pathology, or the American Osteopathic Board of Pathology". (The osteopathic boards were inadvertently omitted in regulation text. See explanation in preamble of document on page 22023.)

*F. On page 22050*

1. Under § 482.57(b)(2), line 6, a comma is added after "management".

2. Under § 482.60(a), line 3, "physician" is changed to "doctor of medicine or osteopathy". (This is a conforming change inadvertently omitted in the regulations text. See page 22012 or preamble to document for discussion.)

3. Under § 482.61(a)(4), line 6, "contracts" is changed to "contacts".

*G. On page 22051*

1. Under § 482.62(b)(2), line 5, the word "(physician)" is removed. (This is a conforming change inadvertently omitted in the regulation text. See page 22012 of preamble to document for discussion.)

2. Under § 482.62(g)(1), line 1, "to" is inserted after the word "appropriate".

3. Under § 482.66 introductory text, line 6, "\$ 405.120" is changed to "\$ 409.30".

Dated: July 25, 1986.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-17471 Filed 8-1-86; 8:45 am]

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1804-1807, 1809, 1813-1815, 1819, 1825, 1827, 1832, 1836, 1837, 1839, 1842, 1845, 1847, 1851, 1852, and 1853

[NASA FAR Supplement Directive 85-5]

### Miscellaneous Changes to NASA FAR Supplement

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

#### ACTION: Final rule.

**SUMMARY:** This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect a number of miscellaneous changes implementing higher level issuances or dealing with NASA internal or administrative matters, including physical consolidation of long-standing regulations.

**EFFECTIVE DATE:** August 1, 1986.

#### FOR FURTHER INFORMATION CONTACT:

W.A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453-2119.

#### SUPPLEMENTARY INFORMATION:

##### Background

The major changes involve: the numbering system for the NASA FAR Supplement; procedures for selecting and appointing contracting officers; a discussion of contract effective dates; assignment of responsibility for internal reports; authorization of simplified closeout for small purchases; use of class justifications; identification of additional sources for locating potential contractors; implementation of FAR requirements for obtaining information on ordering economic quantities; delegations of authority related to qualified products; a \$300 limitation on use of imprest funds; implementation of the FAR contract order of precedence change; clarification of a current solicitation requirement regarding contract property; a discussion of the FAR requirements for synopsisizing unsolicited proposals; reiteration of long-standing NASA policy on use of Source Evaluation Board procedures; procedures for duty-free entry of space articles; clarification of the applicability of patent clauses to domestic contractors and specification of invention and reporting rights for foreign contracting; consolidation and restatement of existing guidance and policy on disputes under contracts awarded prior to March 1979 and public inspection of files; information to be included by NASA in the register of ocean shipments; and purchase of airline tickets by certain contractors at vendors other than SATO's.

##### Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. All regulations in NFSD 85-5 fall in the exempted category. These regulations deal with internal NASA policies and

procedures. Therefore, NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The regulations impose no burdens on the public within the ambit of the Paperwork Reduction Work Act, as implemented at 5 CFR 1320.

List of Subjects in 48 CFR Parts 1801, 1804-1807, 1809, 1813-1815, 1819, 1825, 1827, 1832, 1836, 1837, 1839, 1842, 1845, 1847, 1851, 1852, and 1853

Government procurement.

S. J. Evans,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Parts 1801, 1804 through 1807, 1809, 1813 through 1815, 1819, 1825, 1827, 1832, 1836, 1837, 1839, 1842, 1845, 1847, 1851, 1852, and 1853 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

### PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. The heading for Part 1801 is revised to read as set forth above.

3. Subpart 1801.1 is amended by revising 1801.104-370 to read as follows:

#### 1801.104-370 Dissemination of this Regulation, revisions and procurement notices.

(a) The NASA FAR Supplement NASA FAR Supplement Directives (NFSD's) and Procurement Notices (PN's) (see 1801.270), will be distributed directly to NASA Headquarters and to installation distribution points. The number of copies of the regulations, and revisions thereto, will be distributed on the basis of the requirements furnished by each Headquarters office and NASA field installation to the Office of Procurement, NASA Headquarters (Code HP). Material which revises this Regulation will be published in the Federal Register, as required by statute.

(b) Heads of field installations will ensure that copies of the NASA FAR Supplement, revisions thereto, and PN's are promptly distributed to all interested activities and individuals within their installation. Code HP is responsible for distribution within Headquarters and for monitoring bulk distribution to installations.

(c) Subscriptions to the NASA FAR Supplement, including applicable NFSD's, may be purchased by private concerns and individuals from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.



4. Subpart 1801.2 is amended as follows:

a. Section 1801.270-2 is amended by revising paragraph (a) and adding paragraph (c).

**1801.270-2 Procurement notices.**

(a) This Regulation will also be amended by issuance of Procurement Notices (PN's) when it is necessary or advisable to—

(1) Promulgate as rapidly as possible selected material revising this Regulation, in a general or narrative manner, in advance of a specific page replacement type revision to this Regulation, or

(2) When the policy and/or procedure is expected to be effective for a period of 1 year or less.

(c) Material which is unsuitable for insertion in this Regulation will be promulgated by means other than Procurement Notices.

b. Section 1801.270-4 is revised.

**1801.270-4 Numbering.**

(a) Effective January 1, 1986, NASA FAR Supplement Directives and Procurement Notices are numbered in the same manner as the FAR, i.e., consecutively beginning with number 1 prefixed by the last two digits of calendar year of issuance of the current edition of the NASA FAR Supplement.

(b) Prior to January 1, 1986, the following NFSD's and PN's were issued:

1984 NFSD 84-1 through 84-3

PN 84-1 through 84-15

1985 NFSD 85-1 through 85-4

PN 85-1 through 85-9

Although in calendar year 1986 the NFS is a 1984 edition, the first NFSD is 85-5 and the first PN is 85-10. The current consecutive numbering and the "85" prefix will be maintained until the next NFS edition is published. Full compliance with paragraph (a) of this section will be achieved at that time.

**1801.301 [Amended]**

5. Section 1801.301 is amended by removing the comma after the word "otherwise".

**1801.405 [Amended]**

6. Section 1801.405 is amended by revising the reference to "FAR 1.104(b)" to read "FAR 1.405(b)".

**Subpart 1801.5—[Removed]**

7. Subpart 1801.5 is removed.

8. Subpart 1801.6 is amended by removing 1801.603-1, by adding 1801.603-2 and 1801.603-3, by revising 1801.603-4, and by adding 1801.670 to read as follows:

**1801.603-1 [Removed]**

**1801.603-2 Selection.**

(a) *Policy.* The objective of issuing contracting officer Certificates of Appointment, SF Form 1402, is to ensure that only those officials who are fully qualified to obligate the Government for the expenditure of public funds for the procurement of supplies and/or services are appointed as contracting officers when an organizational need occurs. Only GS-1105 and GS/GM-1102 personnel shall be appointed as contracting officers.

(b) *Appointment levels.* There are three levels of appointment authority as follows; the appropriate appointment level shall be specified on the SF 1402 upon issuance:

(1) *Basic level.* Applies to personnel in the GS-1102 or GS-1105 series only who have signature authority for small purchases, orders placed under Federal Supply Schedule contracts, other mandatory sources, or blanket purchase agreements.

(2) *Intermediate level.* Applies to those in the GS-1102 series only who have been delegated the authority to execute contracts and contract modifications for up to a maximum of \$500,000.

(3) *Senior level.* Applies to all personnel in the GS-1102 series only who have been delegated contracting authority to execute contracts and contract modifications which exceed \$500,000.

(c) *Organizational need determination.* NASA contracting officers shall be appointed only in those instances in which a valid organizational need can be demonstrated. Organizational factors to be considered in assessing the need for a contracting officer appointment include volume of actions, complexity of work, and organizational structure.

(d) *Selection procedure.*  
(1) Once the organizational need is determined, the supervisor will nominate a contracting officer candidate. At the request of the supervisor, the candidate shall prepare a qualification statement (or SF 171) containing the following information:

(i) Name;  
(ii) Title, series, grade;  
(iii) Office;  
(iv) Relevant experience, beginning with current position to a total of four relevant positions, including for each position—

(A) Employer;  
(B) Dates employed;  
(C) Title of position;  
(D) Kind of business/organization; and

(E) Description of work.

(v) Other relevant special qualifications, certifications or skills;

(vi) Relevant honors, awards, or fellowships received;

(vii) Education, including—

(A) Highest level completed;

(B) High school name, dates attended, and diploma received; and

(C) College or university name, dates attended, degree(s) received; chief undergraduate college subjects; number of credits (show whether semester or quarter hours) completed; major field or study at highest level of college work.

(viii) Procurement-related training, including—

(A) Name of course;

(B) Name of school; and

(C) Dates attended.

(2) The supervisor will review the qualification statement to determine the candidate's ability to perform the functions required to meet the organizational need. The supervisor will then complete a Request for Appointment of a Contracting Officer, using the format shown below, justifying the validity of the organizational need and verifying the contracting officer candidate's qualifications. This document will be signed by the candidate's supervisor and submitted through appropriate organizational channels to the appointing authority (see NMI 5101.24). If additional information is required by the appointing authority, the application will be returned with a request for further explanation or supporting data.

**Format**

*Request for Appointment of a Contracting Officer*

The following findings and determinations are made pursuant to applicable laws and regulations:

1. There is a clear and convincing need to appoint a contracting officer with the ability to perform at the \_\_\_\_\_ (basic, intermediate, or senior) contracting officer warrant level for the following reasons:

2. The contracting officer candidate is:

(Name, Title, Series, and Grade)

3. The contracting officer candidate will occupy the organizational level described below:

(Office/Branch/Division and Location)

4. The candidate's qualifications statement is enclosed. It was found that (insert the appropriate statement)

—The candidate's experience and training meet the established qualification standards.

—This candidate does not meet the minimum qualifications in \_\_\_\_\_ (experience and/or training as indicated in the justification); therefore, an interim appointment for the period of \_\_\_\_\_ is



requested. These experience and/or training needs will be identified in the candidate's individual development plan and must be completed by \_\_\_\_\_.

5. The candidate's current conflict-of-interest disclosure statement is on file in the appropriate personnel office or is attached.

6. In addition to the NASA FAR Supplement, laws, Executive Orders, NASA Management Instructions, and other applicable regulations, the following additional warrant limitations are imposed:

- a. Dollar Threshold: \_\_\_\_\_  
b. Other Limitations: \_\_\_\_\_

Supervisor: \_\_\_\_\_  
(Signature of Supervisor of the Candidate)

(Date) (Typed Name)

(Procurement Office) (Title)

APPROVED: \_\_\_\_\_

(Appointing Authority) (Date)

(3) If the appointing authority approves the Request for Appointment of a Contracting Officer, the appointing authority shall issue an SF 1402 Certificate of Appointment in accordance with 1801.603-3. A copy of the SF 1402, the Request for Appointment of a Contracting Officer, and the qualification statement shall be maintained for each contracting officer in a central location in the center procurement office during the period of time the SF 1402 is effective and for three years after its termination or the individual has left the procurement office's employ. A copy of each SF 1402 issued shall be provided to NASA Headquarters, Office of Procurement, Code HM. Each center shall prepare and maintain an up-to-date listing, by name and position, of all the installation's contracting officers and the limitations imposed on them in their warrants. A copy of this listing shall be provided annually to NASA Headquarters, Office of Procurement, Code HM.

(e) *Required qualifications.*

(1) The following are the experience, education, and training requirements needed to qualify for each of the three contracting officer appointment authority levels. Appointing authorities can establish additional qualifications, as appropriate. For example, additional qualifications may be established for those authorized to sign incentive and award-fee actions.

(i) *Experience.*—(A) *Basic level:* One year of current experience in Government or commercial procurement, including six months experience in small purchase.

(B) *Intermediate level:* Two years of current, progressively complex and responsible procurement and/or staff experience in Government or commercial procurement.

(C) *Senior level:* Four years of current, progressively complex and responsible procurement and/or staff experience in Government or commercial procurement.

(ii) *Education.* (preferred, not mandatory).

(A) *Basic level:* A high school diploma or equivalent.

(B) *Intermediate and Senior levels:* A bachelor's degree from an accredited college or university which included or was supplemented by at least 24 semester hours in a field of study directly related to procurement, such as business administration, contract law, accounting, Government management, industrial purchasing, or material management.

(iii) *Training.* Acceptable formal training courses covering the subject matter listed below must be satisfactorily completed before a candidate may be nominated for a contracting officer appointment. Approved equivalency tests may be used as substitutes for these formal training requirements.

(A) *Basic level:* 40 hours of formal training covering the application of fundamental principles, policies, procedures, and practices in procurement.

(B) *Intermediate level:* 80 hours of formal training covering the functional knowledge of procurement law, policies, procedures, and methods, including as a minimum Government contract law, procurement by negotiation, procurement by sealed bidding, contract administration, and cost and price analysis.

(C) *Senior level:* 120 hours of formal training including analysis of procurement methods and techniques to enable an individual to effectively manage contractual relationships. The general topics described above also apply to the senior level.

(2) A two-year associate's degree in a procurement related field, such as business administration or accounting, may be substituted for six months of procurement experience. A four year undergraduate program degree in a procurement-related field from an accredited college or university may be substituted for procurement experience at the rate of 12 semester credit hours for three months of procurement experience. One year of concentrated experience in an advanced procurement subject area beyond the two-year minimum for the intermediate level qualifications and the four year minimum for senior level qualifications may be substituted for 24 classroom hours for formal training in procurement. The maximum credit for the total

additional years of experience in separate concentrated procurement subject areas is 96 classroom hours.

(f) *Interim appointments.* Personnel shall not ordinarily be appointed as contracting officers if they do not meet the applicable qualifications prescribed in this subsection. If it is necessary to appoint a contracting officer who does not fully meet the qualifications, an interim appointment may be granted. The appointing authority shall require as a condition of the interim appointment that all training or experience requirements will be met within a reasonable period of time. Failure to successfully complete the training requirements within this time frame will result in termination of the appointment or issuance of another interim warrant, whichever is deemed necessary by the appointing authority. Such actions must be fully documented.

(g) *Condition of appointment.* As a condition of continuing appointment, all contracting officers shall be required to satisfactorily complete a procurement-related Government, commercial, or academic course/seminar at least once every five years. This training will preferably be in an area closely related to that in which the contracting officer is assigned.

(h) *Changes to contracting officer appointments.* Changes, either increasing or decreasing the warrant limitations of a contracting officer, shall be made solely at the discretion of the appointing authority. When an appointing authority determines to make such changes, a new SF 1402 Certificate of Appointment shall be issued and the existing warrant shall be officially terminated.

**1801.603-3 Appointment.**

(a) The Standard Form 1402 shall be construed as authorization of designated personnel to exercise contracting officer authority in accordance with the FAR. In addition, the Standard Form 1402 shall be construed as authorization of designated personnel to exercise contracting officer authority in accordance with the NASA FAR Supplement and the NASA Procurement Regulation. The limitations section of the Standard Form 1402 shall, immediately after the word "following," state: "... the limitations contained in the NASA FAR Supplement and the limitations contained in the NASA Procurement Regulation."

(b) If the appointing official chooses to restrict a contracting officer from exercising authority under the NASA Procurement Regulation, the limitations section of SF 1402 shall, immediately



after the word "following," state: ". . . the limitations contained in the NASA FAR Supplement. This Certificate of Appointment does not authorize the appointee to exercise contracting officer authority under the NASA Procurement Regulation."

#### 1801.603-4 Termination.

The appointment of a contracting officer may be revoked at any time by the appointing authority. Contracting officers whose appointments are terminated shall be given a written notice stating the reasons for and the effective date of the termination.

#### 1801.670 Delegation of procurement responsibilities.

(a) Non-GS/GM-1102 or -1105 personnel shall only be delegated procurement responsibilities by a warranted contracting officer (see 1801.603) and only in accordance with the guidelines in this section. Personnel who are not in the GS/GM-1102 or -1105 job series shall not be issued formal contracting officer warrants (SF Forms 1402). Procurement responsibilities, as ordering officers or as contracting officer representatives, shall be delegated to such personnel by a warranted contracting officer in a written letter of delegation. Limitations shall be clearly set forth in the delegation letter. Authority to sign contracts, modifications, or orders in excess of the small purchase limitation shall not be delegated.

(b) Nonprocurement personnel who are delegated procurement responsibilities shall be required to have the training, experience, and education requirements necessary for the responsibilities assigned. If responsibility is to be delegated for making small purchases, the training, education, and experience for the Basic-level contracting officer warrant shall be required. Variations from these procedures will require a deviation in accordance with Subpart 1801.4.

### PART 1804—ADMINISTRATIVE MATTERS

9. Subpart 1804.1 is amended by adding 1804.170 to read as follows:

#### 1804.170 Contract effective date.

(a) The contract effective date is defined as the date agreed upon by the contracting parties for the commencement of the period of performance under the contract. The effective date shall be on or after the date on which the contract becomes legally binding. Generally, a contract becomes legally binding on the date that the document, signed by both parties, is

received by the offeror, unless, by the terms of the contract, it does not become binding until some subsequent condition is met, e.g., approval by higher authority (FAR 52.204-1) or availability of funds (FAR 52.232-18). The effective date should allow for adequate time for the actual receipt of the written acceptance by the offeror or its agent, with any doubt being resolved by the effective date being after the contract becomes legally binding. In no case will the effective date precede the signature date of the contracting officer or the designated higher approval authority.

(b) Costs incurred before the effective date of the contract as defined in paragraph (a) above are unallowable unless such costs qualify as precontract costs (see FAR 31.205-32) and the clause prescribed at 1831.170 is used.

10. Subpart 1804.6 is amended as set forth below:

a. Section 1804.601 is added to read as follows:

#### 1804.601 Record requirements.

The Headquarters Procurement Management Division (Code HM) is responsible for developing the computer file, specified at FAR 4.601, through monthly submission of Individual Procurement Action Reports (NASA Form 507) and for subsequent transmittal of the required data to the Federal Procurement Data System (FPDS).

b. In 1804.671-4, paragraph (w), the word "Service" is revised to read "Schedule"; in paragraph (ii), the citation "(see 51.602)" is revised to read "(see FAR 4.804-4)"; and paragraphs (pp), (rr), (ss), and (tt) are revised to read as follows:

#### 1804.671-4 Preparation of Individual Procurement Action Reports (NASA Form 507 and NASA Form 507A).

(pp) Item 41—Total profit or fee (11 positions). Enter the definitized negotiated fee or profit when applicable or available.

(1) For incentive contracts, enter the target fee.

(2) For award fee contracts, enter the base fee plus the maximum award fee.

(3) On modifications, enter the total cumulative, definitized fee and not merely the increase or decrease effected by the respective modification. (The initially reported fee will be overlaid by modification data.)

(4) Round all entries to the nearest whole dollar.

(rr) Item 43—Number of offers received—not used for 8(a) awards. Enter the actual number of offers

received in response to a solicitation. Use 99 for offers totalling 99 or more.

(ss) Item 44—Competitive solicitation procedures. This item pertains to the requirements of FAR Part 6, Subpart 6.1 (Full and Open Competition), 6.2 (Full and Open Competition After Exclusion of Sources), and 6.3 (Other Than Full and Open Competition), with the exception of the statutory authorities for other than full and open competition (Subpart 6.3) which are reported in Item 45. Codes A through L designate the competition alternates described in FAR Part 6. Codes N and P designate actions which do not require application of these requirements. Modifications within the scope of a contract, and delivery order contract actions under requirements, or definite quantity contracts shall be reported the same as the initial contract. Delivery order contract actions under indefinite quantity contracts shall be reported the same as the initial contract when the following conditions, in FAR 6.001(f), are met: "Orders placed under indefinite-quantity contracts that were entered into pursuant to this Part when—The contract was awarded under Subpart 6.1 (Full and Open Competition) or Subpart 6.2 (Full and Open Competition After Exclusion of Sources) and all responsible sources were realistically permitted to compete for the requirements contained in the order; or The contract was awarded under Subpart 6.3 (Other than Full and Open Competition) and the required justification and approval adequately covers the requirements contained in the order."

(1) Code A—Normal Full and Open Competition is entered when the action resulted from an award pursuant to FAR 6.102(a), Sealed bids (see 6.401(a)); or 6.102(b), Competitive proposals (see 6.401(b)); or 6.102(c), Combination of competitive procedures. When this code is used, Items 21 and 46 must be coded competitive. This code will be used for Single Award Schedule Contracts ((i) Mandatory, unless information in the schedule indicates otherwise; (ii) Optional, if you competitively solicit the procurement and the GSA FSS contract is selected). This code may be used for ADP procurements except for those procurements where the solicitation utilized specific make or model specifications (see Item 44, Code L).

(2) Code B—Architect-Engineer is entered if the action resulted from selection of sources for architect engineer contracts in accordance with Pub. L. 92-582 and procedures in FAR Subpart 36.6 (see FAR 6.102(d)(1)). The selection of a potential A&E contractor



is made by an A&E Evaluation Board conducted in accordance with 41 U.S.C. 541 et seq. This selection process is considered a competitive procedure and for reporting purposes shall be reported as a competitive award. When this code is used, Item 43 must be coded 2; Item 45 must be blank; Item 46 must be coded 4; and Item 21 must be coded 3 or 4.

(3) Code C—Basic Research Proposal is entered if the action resulted from competitive selection of basic research proposals as a result of—

(i) A broad agency announcement that is general in nature identifying areas of research interest, including criteria for selecting proposals, and soliciting the participation of all offerors capable of satisfying the Government's needs; and

(ii) A peer or scientific review (see FAR 6.102(d)(2)). When this code is used, Item 46 must be coded 4.

(4) Code D—Multiple Award Schedule is entered if the action is an order issued against a multiple award schedule using the procedures in FAR (see FAR 6.102(d)(3)). When this code is used, Item 46 must be coded 4. This code will be used for Multiple Award Schedule contracts (Mandatory or Optional). This code may be used for ADP procurements except for those procurements where the solicitation utilized specific make or model specifications (see Item 44, Code L). The use of Multiple Award Schedule program is considered to be a competitive procedure because competitive procedures were used by GSA to make the basic multiple award schedule contract awards under 41 U.S.C. 259(b)(3)(A). For reporting purposes, an order issued against a multiple award schedule shall be reported as a competitive award. When this code is used, Item 43 must be coded 2; Item 45 must be blank; Item 46 must be coded 4; and Item 21 must be coded 4.

(5) Code E—Alternate Source-Reduced Cost is entered if the action was taken pursuant to FAR 6.202(a)(1), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would increase or maintain competition and likely result in reduced overall costs for the acquisition, or for any anticipated acquisition, of such supplies or services. When this code is used, Item 46 must be coded 1, 2, or 3.

(6) Code F—Alternate Source-Mobilization is entered if the action was taken pursuant to FAR 6.202(a)(2), which states that agencies may exclude a particular source from a contract action

in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the supplies or services in case of a national emergency or industrial mobilization. When this code is used, Item 46 must be coded 1, 2, or 3.

(7) Code G—Alternate Source—Engineering/R&D Capability is entered if the action was taken pursuant to FAR 6.202(a)(3), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being required if the agency head determines that to do so would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center. When this code is used, Item 46 must be coded 1, 2, or 3.

(8) Code H—Small Business Set-Aside is entered if the action resulted from use of procedures for small business set-asides pursuant to FAR 6.203 which states that contracting officers may set aside solicitations to allow only such business concerns to compete. This code includes contract actions under the Small Business Innovation Research Program established under Pub. L. 97-219. When this code is used, Item 46 must be coded 1, 2, or 3 and Item 21 must be coded 4. SBIR awards must be coded 2 in Item 46. NF 507 Item 19 must be coded N, 1, or 2.

(9) Code J—Labor Surplus Area Set-Aside is entered if the action resulted from use of procedures for labor surplus area set-asides pursuant to FAR 6.203 which states that contracting officers may set aside solicitations to allow only such business concerns to compete. When this code is used, Item 46 must be coded 1, 2, or 3. NF 507 Item 19 must be coded 4.

(10) Code K—Combined LSA/Small Business Set-Aside is entered if the action resulted from use of procedures for combined LSA/Small Business Set-Asides pursuant to FAR 6.203. When this code is used, Item 46 must be coded 1, 2, or 3. NF 507 Item 19 must be coded 3.

(11) Code L—Other than Full and Open Competition is entered if the action resulted from use of other than full and open competition pursuant to 10 U.S.C. 2304(c). The certain conditions or

exceptions that permit contracting without providing full and open competition are prescribed in FAR 6.302. This code will also be used for all ADP procurements where the solicitation utilized specific make and model specifications.

(12) Code N—8(a) Program is entered when the procurement action is made under Authority section 8(a) of the Small Business Act, which authorizes the Small Business Administration to enter into all types of contracts with other agencies and let subcontracts, for performing these contracts, to eligible minority firms (see FAR Subpart 19.8). When this code is used, Items 43, 45, and 46 must be blank. Contracts awarded under the 8(a) Program are not addressed in FAR Part 6.

(13) Code P—Otherwise Authorized by Statute is entered when using contracting procedures that are expressly authorized by statute and not addressed in FAR Part 6. When this code is used, Items 43, 45 and 46 must be blank. This code should not be used for statutes addressed in FAR 6.302-5.

(tt) Item 45—Authority for Other than Full and Open Competition. When Item 44 is coded L, then this item must be completed. Select the applicable categories listed below. This item identifies the solicitation process and not the extent of competition used in the award of the contract.

\* \* \* \* \*

c. Section 1804.676 is revised to read as follows:

**1804.676 Committee on Academic Science and Engineering (C.A.S.E.) Report.**

NASA Form 1356, "C.A.S.E. Report on College and University Projects," shall be prepared for awards to nonprofit institutions of higher education or nonprofit institutions which are operationally affiliated or integrated with an educational institution. Information is used to produce reports required by the National Science Foundation and to respond to inquiries. Submission is required regardless of instrument type (contract, grant or cooperative agreement) and type of proposal (solicited or unsolicited). Full instructions appear on the Form itself and constitute the detailed guidance for preparation and submission. The Form, which is either included with acquisition packages or initiated by the contracting office will, subsequent to the award, be completed, checked and promptly forwarded to the Procurement Management Division, Code HM, NASA Headquarters.

11. Subpart 1804.8 is amended as set forth below:



a. Section 1804.803-71 is added to read as follows:

**1804.803-71 Checklist.**

NASA Form 1098, Checklist for Contract Award File Content, shall be used as the "top page" in contract files. NF 1098 is intended as a reminder of the required or most important documents in the file. It also provides a uniform tab numbering system. Only the most frequently occurring documents are listed. Therefore, space is provided for writing in additional documents applicable to specific contracts or resulting from local guidelines. The user is cautioned that completion of the NF 1098, in and of itself, does not establish that all contract actions have been taken and/or properly documented.

b. Section 1804.804-5 is revised to read as follows:

**1804.804-5 Detailed procedures for closing out contract files.**

(a) When the contracting office retains contract administration (excluding small purchases), it shall use as necessary NASA Form 1612, Contract Closeout Checklist, and DD Form 1593, Contract Administration Completion Record, to ensure that the applicable actions enumerated at FAR 4.804-5(a) are completed.

(b) Upon completion of paragraph (a) above, the contracting officer shall use NASA Form 1611, Contract Completion Statement, (this will satisfy the requirements of FAR 4.804-5(b)) for all contracts exceeding \$25,000. For contracts \$25,000 and under, the contracting officer shall file a signed statement that all contract actions are complete.

**1804.805-70 [Amended]**

c. In 1804.805-70(a)(2) both dollar amounts of "\$10,000" are revised to read "\$25,000"; and in paragraph (b)(1), the citation "18-805" is revised to read "1804.805".

13. Subpart 1804.72 is amended by removing 1804.7202 and by revising 1804.7205(a) to read as follows:

**1804.7202 [Removed]**

**1804.7205 Information to be furnished when requesting approval of contracts and supplemental agreements.**

(a) *General.* Requests for approval of contracts and supplemental agreements submitted to Headquarters for approval by the Assistant Administrator for Procurement, in accordance with Subpart 1807.71, Master Buy Plan Procedures, and 1816.603, Letter contracts, shall include the information required by this section and shall be forwarded in sufficient time to allow a

minimum of 15 days for review. The official contract file will be submitted with the request for approval and will include completed NASA Form 1098, Checklist for Contract Award File Content. Where Headquarters Legal Counsel review is required, a duplicate copy of the file should, if practical, be forwarded in order to expedite review. A list of contracts requiring such legal review will be published periodically.

14. Subpart 1804.73 is amended by revising 1804.7301 (a) and (d) to read as follows:

**1804.7301 General.**

(a) Procurement requests will be prepared and submitted to the contracting office in accordance with installation instructions.

(c) The procurement request shall be assigned within the contracting office to a negotiator who will be responsible to the contracting officer for conducting the business aspects of the transaction. The negotiator will review the request to ensure that it complies with the FAR, this Regulation, applicable installation instructions, and that the information contained in the request is in sufficient detail to prepare the solicitation. Uncertain requirements or inconsistencies in the procurement request will be discussed with the initiator of the request and clarified prior to the initiation of procurement action.

**PART 1805—PUBLICIZING CONTRACT ACTIONS**

15. Subpart 1805.2 is amended by adding 1805.202 to read as follows:

**1805.202 Exceptions.**

(a) Under FAR 15.507(b)(4), the contracting officer must comply with the preaward synopsis requirement at FAR 5.201 for all unsolicited proposals that will result in contracts, unless evaluation on a case-by-case basis demonstrates that FAR 5.202(a)(8) is applicable. Note that in keeping with the focus of Pub. L. 98-369, the rule, rather than the exception, is the use of synopses to foster competition.

(b) With careful drafting it should be possible to develop a generic or more detailed synopsis which adequately describes a NASA need without disclosing the originality of thought or innovativeness contained in an unsolicited research proposal. In a few instances the mere statement in a synopsis, without any further elaboration, that a particular problem and solution exist would improperly

disclose the proposer's unique perception, i.e., the originality of thought or innovativeness. However, generally, the contracting officer, in developing the synopsis, should emphasize the problem or research area which the Government wishes to address rather than the solution proposed in the unsolicited proposal. Thus, the primary objective is to foster competition, while still encouraging the submission of unique and innovative concepts, the substance of which is not otherwise available to the Government.

(c) The phrase "proprietary information" as used at FAR 5.202(a)(8) means information (data) that constitutes a trade secret and/or information that is commercial or financial and confidential or privileged.

**PART 1806—COMPETITION REQUIREMENTS**

16. Subpart 1806.3 is amended as follows:

**1806.301 Policy.**

a. In 1806.301, the heading is revised to read as set forth above.

**1806.302-1-70 [Amended]**

b. In 1806.302-1-70(a), the citation "FAR 6.302-1(b)(6)" is revised to read "FAR 6.302-1(b)(4)".

c. In 1806.304(a), the following sentence is added to the end of the paragraph: "NASA Form 1452 shall be used for actions requiring Headquarters approval.", and paragraph (d) is revised to read as follows:

**1806.304 Approval of the justification.**

(d) Regardless of dollar value, class justifications shall be processed and approved as if they were individual justifications over \$10,000,000.

**PART 1807—ACQUISITION PLANNING**

17. Subpart 1807.1 is amended by revising 1807.102, 1807.103(b)(1)(iii), and 1807.170-1 to read as follows:

**1807.102 Policy.**

(a) In R&D procurements over \$100,000, when three or fewer sources are known, the contracting officer shall have the requirements office query the Defense Technical Information Center (DTIC) IR&D Database to identify additional sources conducting IR&D in the area of the instant procurement. This is in addition to any other market survey techniques.

(b) NASA uses several methods to document its acquisition planning. These include the Project Plan, Program Operation Plan (POP), normal budget



submissions, and procurement plan. The procurement plan is the only one of these coordinated documents that is a direct procurement responsibility. Instructions and requirements for completing the other documents are in various NMI's. The thresholds and requirements for NASA procurement plans are at 1807.103 below. As authorized in FAR 7.102, NASA will continue to use its existing procurement planning system in lieu of the criteria in FAR Subpart 7.1. However, all procurement plans will comply with FAR 7.104(c), 7.105(b)(2), and when appropriate, 7.106.

#### 1807.103 Agency-head responsibilities.

(b) \* \* \*

(1) \* \* \*

(iii) For procurements that are selected for Headquarters review and approval in accordance with the Master Buy Plan Procedure, the procurement plan shall be submitted for the signature of the Head of the Installation after review and written concurrences by the Director or Assistant Director of the cognizant technical directorate, cognizant Program/Project Manager, or cognizant staff official, as applicable, who reports directly to the Head of the Installation, and by the Procurement Officer. The procurement plan shall be submitted to the Assistant Administrator for Procurement (Code HS) for coordination of the Headquarters review and approval process. The original and ten copies shall be submitted. The position title will be shown for each individual signing the procurement plan as required by paragraphs (b)(1) (i) through (iii) of this section.

#### 1807.170-1 Procurement plans requiring approval by NASA Headquarters.

(a) Each procurement plan prepared for approval by NASA Headquarters shall be prepared on NASA Forms 1451 and 1452. Form 1451, Request for Procurement Plan Approval, shall be completed as follows:

(1) *Item 1. A descriptive short title.* In this item, include only a descriptive short title of the procurement plan. A Detailed Description of the Proposed Procurement will be attached to the Plan as Tab A. The information to be provided will consist of—

(i) A clear and concise description, including intended use, of the item or service to be procured;

(ii) Number of units, delivery schedule, and/or period of performance (Note: In the event a schedule of major

events will enhance the plan, it should also be included);

(iii) An identification of any option provision including the period(s) covered and estimated costs thereof;

(iv) A brief discussion of the relationship between the proposed procurement and NMI 7121.1, Planning and Approval of Major Research and Development Projects; and

(v) A statement as to whether the contractor will be required to comply with detailed specifications, meet performance requirements, perform a mission, or furnish a level of effort.

(2) *Item 2. Name of installation.*

Indicate the name of the installation responsible for the procurement.

(3) *Item 3. Plan prepared by.* Indicate the name of the individual who prepared the plan.

(4) *Item 4. Date.* Date the plan is prepared.

(5) *Item 5. Responsible technical office.* Identify the office (by title) that will be responsible for technical monitoring of the contract. Include a technical point of contact and telephone number.

(6) *Item 6. Total estimated cost of this procurement.* Provide one figure for the total estimated cost of the proposed procurement, including options, if any. When options are involved, show the cost for each option separately in the description (Tab A), as a breakout from total cost.

(7) *Item 7. Proposed funding by fiscal year and Unique Project Number (UPN).* Identify the funding amounts by appropriation, fiscal year, and UPN, for the procurement covered by the plan. Where funding is obtained from multiple projects, provide a complete identification of each fund source.

(8) *Item 8. Full and open competition.* If full and open competition is provided for, check box. If other than full and open competition is contemplated, check box.

(9) *Item 9. Type of contract.* State the type of contract recommended for the procurement. Under Tab B, Remarks, discuss the type of contract and the rationale for its selection. Where an incentive-type contract is proposed, discuss the type of incentive provision considered most suitable for the accomplishment of the procurement objectives.

(10) *Item 10. Facilities and Government-furnished property.* Indicate, by checking the appropriate box, whether the procurement will require the providing of any existing, new, or modified Government property. When other Government property is to be provided, identify the item(s) and dollar amount(s) involved. The dollar

amount(s) provided in Item 12 will not be included in the dollar amounts specified under Items 7 and 9 of the form unless the property or facilities specified are part of the procurement. If dollar amounts under Item 12 are included under Items 7 and 9, the amounts should be so annotated under this item in Tab B, Remarks.

(11) *Item 11. Procurement action schedule.* Indicate the date the procurement plan was submitted to Headquarters for review and approval. For all other entries, provide only the number of calendar days required to complete the action (beginning at the time the previous action was completed) in order to meet the program schedule.

(b) *Tab B, Remarks.*—(1) *General.* Include any comments required by the above instructions not covered elsewhere and any other information considered essential to amplify or clarify any item on the form. In addition—

(i) Identify specific deviation(s) to the Acquisition Regulation;

(ii) Identify any special conditions or clauses required;

(iii) Identify all separate approvals required in support of the proposed procurement;

(iv) Include a copy of any comments by Counsel for the contracting office (or a statement that Counsel has no objection to the plan) and describe the actions taken in response to any such comments; and

(v) Discuss considerations given to small business, including minority business enterprises, participation.

(2) *Competition.* Describe how competition will be sought and promoted. If appropriate, discuss how competition will be sustained through the course of the acquisition. If full and open competition is not contemplated, cite the authority in FAR 6.202 or 6.302; identify the source(s); and discuss why full and open competition cannot be obtained.

18. Subpart 1807.2 is added to read as follows:

#### Subpart 1807.2—Planning for the Purchase of Supplies in Economic Quantities

##### 1807.204 Responsibilities of contracting officers.

The contracting officer shall transmit in writing to the cognizant inventory management/requirements office either the actual offeror responses or a summary of the salient points thereof. This does not preclude preliminary verbal consultations. The transmittal should be made within five working



days after the closing date for receipt of offers; however, in negotiated acquisitions, if a response indicates a significant price variation, it should be transmitted immediately. All transmittals shall request the recipient to specify promptly whether the acquisition should be amended, cancelled, or concluded as is. Although award or negotiation need not be delayed pending a reply unless a potential for significant savings is apparent, such delay is encouraged where feasible in negotiated acquisitions in order to fully accommodate the intent and purpose of review of the data by the inventory management/requirements office. In sealed bid acquisitions, the policy in FAR 14.404-1(a) applies.

19. Subpart 1807.71 is amended as set forth below:

a. Section 1807.7102 is amended by revising paragraph (a) to read as follows:

#### 1807.7102 Applicability.

(a) The Master Buy Plan Procedure is applicable to each negotiated procurement when the expected dollar value of that procurement, or aggregate amount of follow-on procurements (see 1807.103(b)(2)), is expected to equal or exceed the dollar value in paragraph (c) below, for the installation making the award. This procedure is also applicable to the following special procurements which are less than the paragraph (c) amounts:

(1) Procurement of utility services when an area-wide contract is not used and either—

(i) The annual cost of the services to be procured is estimated by the using installation, at the time of the initiation of the service or annual renewal of the expenditure, to exceed \$100,000; or

(ii) When, except for communication services, a proposed connection charge, termination liability, or any other facilities charge to be paid (whether or not refundable) is estimated to exceed \$25,000.

(2) Procurement of architect-engineer services for \$1,000,000 or more including those services described at 18-15.903-70.

(3) Procurements which provide facilities having a total acquisition value exceeding \$500,000, or provide real property regardless of amount (see 1845.302-1).

\* \* \*

#### 1807.7105 [Amended]

b. In 1807.7105(a), after the parenthetical phrase "(including supplemental agreements)", remove the words "and leases".

c. In 1807.7106, the Master Buy Plan Procedure Format, paragraph (7) is revised to read as follows:

#### 1807.7106 Format of Master Buy Plan.

\* \* \*

(7) List only *one* procurement on each page. Sequentially number each procurement action page with a two digit "Line Item Number" beginning with "01" for each annual submission and continue the same numbering system for amendments to the annual submission so as to provide a unique, sequential number throughout the entire fiscal year.

#### PART 1809—CONTRACTOR QUALIFICATIONS

20. Subpart 1809.1 is amended by revising 1809.106-7001 to read as follows:

##### 1809.106-7001 General.

Subsections 1809.106-7001 through 1809.106-7205 establish procedures for conducting preaward surveys. They include preaward surveys conducted by NASA, those conducted by another agency for NASA, and those jointly conducted.

21. Subpart 1809.2 is amended by adding 1809.202 and 1809.206-1 and revising 1809.203-70(a) to read as follows:

##### 1809.202 Policy.

(a) Authority regarding agency head actions under FAR 9.202(a) is delegated to the cognizant technical activity with approval by the installation Competition Advocate.

(b) The approval authority of FAR 9.202(e) is delegated to the installation Competition Advocate. Requests shall be prepared by the cognizant requirements office and submitted via the procurement officer.

##### 1809.203-70 General.

(a) NASA Headquarters Office of Reliability and Quality Assurance (Code DR) is responsible for justifying, determining, and approving NASA's need for inclusion and continued usage of qualification requirements in specifications under the NASA Microelectronics Reliability Program.

\* \* \*

##### 1809.206-1 General.

(a) The emergency determination authority specified at FAR 9.206-1(b) is delegated to the installation Competition Advocate. Requests for determination shall be prepared by the cognizant requirements office and submitted through the procurement officer.

(b) Requests not to enforce a qualification requirement in a non-emergency situation shall be prepared by the cognizant requirements office and approved by the Headquarters Chief Engineer, Code D.

(c) Under FAR 9.206-1(c), if an offeror seeks to demonstrate its capability, where applicable, both the product and the producer must meet the established standards.

#### PART 1813—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

##### 1813.404 [Amended]

22. In Subpart 1813.4, 1813.404(a) is revised by placing a period after "\$300" and removing the remainder of the sentence.

##### 1813.7003 [Amended]

23. In Subpart 1813.70, 1813.7003(a) is revised by removing the parenthetical phrase "(or \$500 under emergency conditions)".

#### PART 1814—SEALED BIDDING

##### 1814.201-3 [Removed]

24. Subpart 1814.2 is amended by removing 1814.201-3.

#### PART 1815—CONTRACTING BY NEGOTIATION

25. Subpart 1815.4 is amended as set forth below:

##### 1815.406-3 [Removed]

a. Section 1815.406-3 is removed.

b. Section 1815.406-5 is amended by redesignating paragraphs (a) and (b) as (b) and (c), respectively. New paragraph (a) is added, and newly redesignated paragraph (b)(9) is revised to read as follows:

##### 1815.406-5 Part IV—Representations and instructions.

(a) *Section K, Representations, certifications, and other statements of offerors or quoters.* See 1845.104(b).

(b) \* \* \*

(9) Include a statement that the solicitation does not commit the Government to pay any cost incurred in the submission of the offer/quotation or in making necessary studies or designs for the preparation thereof, nor to contract for services or supplies.

\* \* \*

##### 1815.407-70 [Amended]

c. In 1815.407-70, "1852.214-72" is revised to read "1852.215-72".

26. Subpart 1815.5 is amended by revising 1815.507(c) to read as follows:



**1815.507 Contracting methods.**

(c) See NFS 1805.202 for guidance in complying with the preaward synopsis requirement at FAR 15.507(b)(4).

27. Subpart 1815.6 is amended by revising 1815.613-70 and in 1815.613-71, adding paragraph (a)(4) to read as follows:

**1815.613-70 General.**

Pursuant to FAR 15.613, the source selection procedures in 1815.613 apply to all procurements negotiated by NASA. The evaluation of proposals received may be accomplished in a number of different ways. Evaluation of proposals received in response to an Announcement of Opportunity will be accomplished in accordance with NHB 8030.6, Guidelines for Acquisition of Investigations. The applicability of and rules for the conduct of source selection in accordance with formal source evaluation board procedures are covered at 1815.613-71. The policies prescribed at 1815.613-71 shall also apply to other negotiated procurements.

**1815.613-71 Evaluation and negotiation of procurements conducted in accordance with the Source Evaluation Board Manual (NHB 5103.6).**

(a) \* \* \*

(4) These procedures may be used in any other competitively negotiated procurements where a Source Selection Official determines it is desirable to do so.

**PART 1819—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS**

28. Part 1819 is amended by removing the heading for Subpart 1819.1. Section 1819.001, titled "Definitions" is added. Section 1819.101 is redesignated as 1819.001-70 and the heading is revised to read "Additional Definitions".

**PART 1825—FOREIGN ACQUISITION****1825.109 [Removed]****1825.109-70 [Removed]**

29. Subpart 1825.1 is amended by removing 1825.109 and 1825.109-70.

30. Section 1825.604 is amended by adding paragraph (e) to read as follows:

**1825.604 Exempted supplies.**

\* \* \*

(e) Item 837.00 of Schedule 8 and the Subpart A headnote of Part 3, Schedule 8, provides for duty-free entry of articles launched into space by NASA, articles returned from space by NASA, including spare parts or necessary and uniquely associated support equipment. Consult

14 CFR 1214.15 (NMI 8610.18, "Space Transportation System; Duty-Free Entry of Space Articles") for procedures on obtaining the required Headquarters certificates for the duty-free entry of these articles.

**PART 1827—PATENTS, DATA, AND COPYRIGHTS**

31. Subpart 1827.3 is amended as follows:

a. In 1827.373, paragraphs (a)(1) and (c)(1) are revised, and paragraph (g) is added to read as follows:

**1827.373 Contract clauses.**

(a) \* \* \*

(1) The contracting officer shall insert the clause at FAR 52.227-11, Patent Rights—Retention by the Contractor (Short Form), in any contract (and solicitation therefor) with a small business firm or a nonprofit organization for the performance of experimental, developmental, or research work unless a determination is made to use another clause pursuant to one of the exceptions set forth in paragraph (c) below. The clause shall be modified as specified at 1852.227-11. Also, see paragraph (f) below.

\* \* \*

(c) \* \* \*

(1) When work is to be performed outside the United States, its possessions, Puerto Rico by contractors that are not domestic firms, the clause at 1852.227-85, Invention Reporting and Rights—Foreign, shall be used unless the contracting officer determines, with concurrence of installation Patent Counsel, that the objectives of the contract would be better served by use of the clause at FAR 52.227-13, Patent Rights—Acquisition by the Government. For the purposes of this subparagraph, the contracting officer may presume that a contractor is not a domestic firm unless it is known that the firm is not foreign owned, controlled, or influenced. (See FAR 27.304-4(a) regarding subcontracts with U.S. firms.)

\* \* \*

(g) *Solicitation provision.* The contracting officer shall insert the provision at 1852.227-84, Patent Rights Clauses, in solicitations for experimental, developmental, or research work to be performed in the United States, its possessions, or Puerto Rico, when the eventual awardee may be a small business or nonprofit organization but it is not known at the time of solicitation; e.g., the procurement is not a set-aside and is not sole source to a large business.

**PART 1832—CONTRACT FINANCING****1832.470 [Removed]**

32. Subpart 1832.4 is amended by removing 1832.470.

**PART 1833—PROTESTS, DISPUTES, AND APPEALS**

33a. The heading of Part 1833 is revised to read as set forth above.

33b. Subpart 1833.2 is amended by adding 1833.211-70 to read as follows:

**1833.211-70 Contracts awarded before March 1, 1979.**

Under contracts awarded before the effective date of the Contract Disputes Act of 1978 (March 1, 1979), the contractor may elect to proceed either under the Act or under the Disputes clause in the contract. Therefore, when preparing final decision letters regarding disputes under contracts awarded before March 1, 1979, the paragraph in FAR 22.211(a)(4)(v) should be revised to read as follows:

This is the final decision of the contracting officer. Since this contract was awarded before the effective date of the Contract Disputes Act of 1978 (March 1, 1979), you may appeal this decision by following the procedures of either the—

(a) Disputes clause (dated April 1984) in 52.233-1 of the Federal Acquisition Regulation; or

(b) Disputes clause (dated September 1962) in the contract.

If you decide to make an appeal under Procedure (a), the Disputes clause dated April 1984, you must mail or otherwise furnish written notice thereof to the NASA Board of Contract Appeals, Code NC, Room 6058, 4th and Maryland Avenue SW., Washington, DC 20546, within ninety days from the date you receive this decision. A copy thereof shall be furnished to the contracting officer from whose decision the appeal is taken. The notice shall indicate that an appeal is intended, should reference this decision, and identify the contract by number. For appeals under this clause you may, solely at your election, proceed under the NASA Board of Contract Appeals' small claims procedure (for claims \$10,000 or less) or their accelerated procedure (for claims \$50,000 or less). In lieu of appealing to the NASA Board of Contract Appeals, you may bring an action directly in the U.S. Claims Court within twelve months of the date you receive this decision.

If you decide to make an appeal under Procedure (b), the Disputes clause of this contract (Disputes, September 1962), you must mail or otherwise furnish to the Contracting Officer, within thirty days from the date you receive this decision, a written appeal or written notice thereof addressed to the Administrator of NASA or the Board of Contract Appeals, which shall indicate that an appeal is intended, and shall reference this decision and identify the contract by number. For appeals filed under this clause



you may elect to proceed under the NASA Board of Contract Appeals optional accelerated procedure (for claims \$25,000 or less). The NASA Board of Contract Appeals is the authorized representative of the Administrator for hearing and determining disputes.

There is a separate set of Rules of the NASA Board of Contract Appeals for each of the two procedures described above; both sets appear in Part 14, Code of Federal Regulations, section 1241. The Board will mail a copy of its Rules to you if you timely file an appeal from this decision.

## PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

### 1836.203 [Amended]

35. Section 1836.203(a) is amended by revising "For Office Use Only" to read "For Official Use Only".

## PART 1837—SERVICE CONTRACTING

36. Subpart 1837.2 is amended by revising 1837.204-70(d), by adding 1837.204-71, and by revising 1837.205-71(b) (1) and (4) to read as follows:

### 1837.204-70 NASA policy.

(d) Consulting service tasks assigned to the Jet Propulsion Laboratory and amendments to contract NAS 7-100 must be reviewed and approved by the Associate Administrator for Management Operations (Code N).

### 1837.204-71 Public inspection.

(a) NASA's annual Appropriations Act states: "Except as otherwise provided under existing law or under an Executive Order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract."

(b) In accordance with paragraph (a) above, the Office of Procurement (Code HM) will be responsible for preparing and distributing the list for public inspection on a quarterly basis to NASA Information Centers pursuant to NMI 1382.2 (14 CFR Part 1206). "Availability of Agency Records to Members of the Public." Copies of such lists will also be

distributed to NASA installation procurement offices to assure an awareness of contracts that have been highlighted for public inspection.

(c) Public inspection of consultant service contracts and purchase orders at NASA field installations in accordance with the Appropriations Act, will be limited to basic contract documents and modifications. Requests for copies of contracts or other data will be handled in accordance with NMI 1382.2 and OFPP Policy Letter No. 78-3, dated March 30, 1978.

### 1837.205-71 Negotiation of contracts.

(b) \* \* \*

(1) The contractor warrants that the rates quoted are not in excess of those charged nongovernmental clients for the same services performed by the same individuals:

(4) The contractor agrees that any reports regarding organizational matters (as required by the contract) shall include, when feasible, in addition to the recommendations, alternative methods to be considered and the pros and cons of each alternative.

## PART 1839—MANAGEMENT ACQUISITION AND USE OF INFORMATION RESOURCES

### 1839.7003-2 [Amended]

36. In section 1839.7003-2, in the Format, in paragraph 5(ii)(G), the reference to "FIRM 201-30.013-2," is revised to read "FIRM 201-11.002-1."

## PART 1842—CONTRACT ADMINISTRATION

### 1842.202-70 [Amended]

37. Subpart 1842.2 is amended by revising the last sentence of 1842.202-70(e) to read "When retained, the functions should be performed in accordance with Subpart 1845.72."

## PART 1845—GOVERNMENT PROPERTY

38. Subpart 1845.1 is amended by revising 1845.106-70(c) to read as follows:

### 1845.106-70 NASA contract clauses.

(c) The contracting officer shall insert the clause at 1852.245-72, Liability for Government Property Furnished for Repair and Services, in solicitations and contracts on a fixed-price basis (except for experimental, developmental, or research work with educational or nonprofit institutions, where no profit to the contractor is contemplated) for

repair (modification, rehabilitation) or other servicing of Government property, when such property is furnished to a contractor for that purpose. If a substantial quantity of parts or material will be furnished to the contractor, or a significant amount of scrap will result from the work to be performed, or if other Government property will be furnished to or acquired by the contractor, the contract will also contain the appropriate Government property clause (see FAR 45.106) and the Schedule of the contract shall provide that such property shall be governed by the terms of that clause. When minor repairs are obtained under small purchases procedures, the procedures of this paragraph will not apply. Contracting officers shall not require additional insurance under the clause unless the circumstances clearly indicate advantages to the Government.

39. Subpart 1845.3 is amended as follows:

### 1845.302-70 [Amended]

a. In 1845.302-70(a), the words "NASA Management Delegation A7330.1B." is revised to read "NASA Management Instruction 7330.1C."

40. Subpart 1845.72 is amended by revising 1845.7205(f)(1) to read as follows:

### 1845.7205 Functional oversight of property administration and plant clearance.

(f) \* \* \*

(1) Obtain and review property control system survey summaries for all contracts for which property administration has been delegated. Advise Headquarters Code NIE of any severe or continuing problems.

## PART 1847—TRANSPORTATION

41. Subpart 1847.1 is amended by revising 1847.506-70(a) and adding 1847.507 to read as follows:

### 1847.506-70 Compliance with the Cargo Preference Act.

(a) A register will be established and maintained by the transportation officer in each field installation to reflect adherence to the Cargo Preference Act. The register shall contain data related to shipments made by the installation, as well as those made by NASA contractors. Where there is no transportation officer available, it will be maintained by the procurement office. Such registers shall contain pertinent details of ocean shipments,



including, but not limited to, the ports of origin and destination of shipments, commodity descriptions, and gross weight, freight revenue, name of vessel, operator of vessel, and date of loading. Registers shall be maintained on a current basis and organized so that adherence to the Cargo Preference Act can be ascertained at all times. Insofar as practicable, compliance with the 50 percent minimum requirements of the Cargo Preference Act shall be maintained on a quarter-year basis. Any deficiencies to maintain such compliance shall be corrected by the end of the calendar year.

#### 1847.507 Contract clauses.

The basic clause at FAR 52.247-64 with the appropriate alternate (I or II) shall be used.

### PART 1851—USE OF GOVERNMENT SOURCES BY CONTRACTORS

42. Subpart 1851.70 is amended by revising 1851.7003(c), 1851.7004, and 1851.7005 to read as follows:

#### 1851.7093 Eligible contractors.

(c) Contractor is on- or near-site at a NASA installation.

#### 1851.7004 Procedures.

(a) Individual airline tariffs as well as airline business strategies govern the availability of the discount fares. These rules and practices will be interpreted and applied by the contractor's source of airline tickets when contractors request service and are the reason for the provision in paragraph (g) of the clause at 1852.251-70. Where airline tariffs permit use of discount fares which are in addition to the GSA contract fare, such additional fares should also be used.

(b) The basic procedures for obtaining GSA City-Pairs Contract and other government discount passenger air transportation rates to be followed by contractors is set forth in the clause at 1852.251-70. (The contractor's source of airline tickets and Installation Travel Offices will comply with guidance provided by the Transportation Management Office.)

(c) For both new and amended contracts, the contracting officer shall notify the installation travel office that the clause in (b), above, has been used and furnish contractor name, contract number, and period of performance.

#### 1851.7005 Contract clause.

The contracting officer shall insert the clause at 1852.251-70, Contractor

Employee Air Transportation, in solicitations and contracts with contractors determined eligible in accordance with 1851.7003. The clause implements the following special conditions, based on NASA-Air Transport Association agreements, which must be observed in authorizing a contractor to use reduced GSA-negotiated passenger airfares:

(a) Service must be ordered on SF 1169, U.S. Government Transportation Request (GTR).

(b) Tickets may be obtained only for bona-fide contractor employees, e.g., the procedures cannot be used to obtain tickets for Government employees.

(c) Air carriers are not obligated to make city-pairs contract fares or other Government discount fares available to NASA contractors (see 1851.7004).

### PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

43. Subpart 1852.2 is amended as follows:

#### 1852.214-70, 1852.215-73, and 1852.225-70 [Removed]

a. Sections 1852.214-70, 1852.215-73, and 1852.225-70 are removed.

b. Sections 1852.227-84, and 1852.227-85 are added to read as follows:

#### 1852.227-84 Patent Rights Clauses.

The contracting officer shall insert the following provision as prescribed in 1827.373(g):

##### Patent Rights Clauses (April 1986)

This solicitation contains the patent rights clauses of FAR 52.227-11 (as modified by the NFS), NFS 1852.227-70, and NFS 1852.227-73. If the contract resulting from this solicitation is awarded to a small business or nonprofit organization, the clause at NFS 1852.227-70 shall not apply. If the award is to other than a small business or nonprofit organization, the clauses at FAR 52.227-11 and NFS 1852.227-73 shall not apply.

(End of Provision)

#### 1852.227-85 Invention Reporting and Rights—Foreign.

As prescribed in 1827.373(c)(1), insert the following clause:

##### Invention Reporting and Rights—Foreign (April 1986)

(a) As used in this clause, the term "invention" means any invention, discovery or improvement, and "made" means the conception or first actual demonstration that the invention is useful and operable.

(b) The Contractor shall report promptly to the Contracting Officer each invention made in the performance of work under this contract. The report of each such invention shall:

(1) Identify the inventor(s) by full name; and

(2) Include such full and complete technical information concerning the invention as is necessary to enable an understanding of the nature and operation thereof.

(c) The Contractor hereby grants to the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration the full right, title and interest in and to each such invention throughout the world, except for the State in which this contract is to be performed. As to such State, Contractor hereby grants to the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration only an irrevocable, nontransferable, nonexclusive, royalty-free license to practice each such invention by or on behalf of the United States of America or any foreign government pursuant to any treaty or agreement with the United States of America or any foreign government pursuant to any treaty or agreement with the United States of America, provided that Contractor within a reasonable time files a patent application in that State for each such invention. Where Contractor does not elect to file such patent application for any such invention in that State, full right, title and interest in and to such invention in that State shall reside in the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

(d) The Contractor agrees to execute or to secure the execution of such legal instruments as may be necessary to confirm and protect the rights granted by paragraph (c) above, including papers incident to the filing and prosecution of patent applications.

(e) Upon completion of the contract work, and prior to final payment, Contractor shall submit to the Contracting Officer a final report listing all inventions reportable under this contract or certifying that no such inventions have been made.

(f) In each subcontract, the Contractor awards under this contract where the performance of research, experimental design, engineering, or developmental work is contemplated, the Contractor shall include this clause and the name and address of the Contracting Officer. (End of Clause)

c. Section 1852.251-70 is revised to read as follows:

#### 1852.251-70 Contractor Employee Air Transportation.

As prescribed at 1851.7005, insert the following clause:

##### Contractor Employee Air Transportation (December 1985)

(a) To the maximum extent practicable consistent with travel requirements, the Contractor shall use the reduced air transportation rates and services provided through available Government-discount airfares for bona-fide employees' travel that is otherwise reimbursable as a direct cost pursuant to this contract.

(b) Upon initial receipt of this contract or amendment, the Contractor shall notify the travel office of the issuing installation of the



name and title of the Contractor employee responsible for authorizing each individual airline ticket purchase and provide a copy of the Contractor's document by which such authorization is made. At a minimum, this document shall require that ticket purchases be supported with the name and position of the traveler, the purpose of the travel, the itinerary (places and dates), and the dated signature and position of the authorizing official. Revised notifications shall be made to accommodate changed responsibilities.

(c) The Contractor will acknowledge receipt of Standard Form 1169, Government Transportation Request (GTR) by signing the Transmittal document (NASA Form 1622) and returning it to the issuing travel office.

(d) The Contractor shall order Government-discounted airfare services only through issuance of a GTR. The authorized Contractor official shall obtain the installation travel officer's signature on the requisite number of GTR's for each ordering period. However, a maximum of one GTR per applicable contract per billing period shall be provided to the source of airline tickets.

(e) All tickets purchased at Government discount rates will be obtained with the GTR and each ticket shall have at least one flight coupon at Government discount rates.

(f) The Contractor shall account for each issued GTR, safeguard GTR's against unauthorized use, and return unused GTR's to the issuing NASA office upon completion of the contract. The installation travel office and the source of airline tickets shall be promptly notified of lost or stolen GTR's. The contractor shall establish procedures with its source of airline tickets to obtain refunds for tickets ordered and issued, but not used.

(g) Nothing in this clause shall authorize obtaining transportation or services which are not otherwise reimbursable as direct costs under this contract, or for use by Government employees. Nothing in this clause requires air carriers to make available to the Contractor city-pair contract fares or other Government discount fares. (End of clause)

#### PART 1853—FORMS

44. Subpart 1853.2 is amended by revising 1853.207(b) and 1853.251 to read as follows:

**1853.207 Acquisition planning (NF's 1451, 1452).**

(b) *NASA Form 1452, Signature Page (Installation)*. NF 1452, prescribed at 1806.304(a) and 1807.170-1(a), shall be used in obtaining installation-level signatures required by 1806.304 and 1807.103.

**1853.251 Contractor Employee Air Transportation (SF's 1169, NF 1622).**

The following forms, prescribed at 1851.7005, shall be used in conjunction with employee air transportation under specified contracts:

(a) *Standard Form 1169, U.S. Government Transportation Request.*

Form 1169 shall be used by contractors to obtain tickets.

(b) *NASA Form 1622, Transmittal and Acknowledgement of Government Transportation Requests*. Form 1622 shall be used in transmitting the NASA Forms 1169 to contractors.

[FR Doc. 86-17479 Filed 8-1-86; 8:45 am]

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 661

[Docket No. 60477-6077]

##### Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of inseason adjustments and request for comments.

**SUMMARY:** The Secretary of Commerce (Secretary) announces a reduction of the bag limit in the recreational fishery from Cape Falcon to Cape Blanco, Oregon. Previous action has been taken to close the fishery on Sunday and Monday of each week. This action is necessary to slow the harvest of coho salmon and increase the likelihood that the fishery will extend through Labor Day. It is intended to allow a maximum length of season for the recreational fishery established by the 1986 ocean salmon fishing regulations.

**EFFECTIVE DATE:** The reduced bag limit for the recreational fishery from Cape Falcon to Cape Blanco, Oregon, is effective at 2400 hours Pacific Daylight Time on July 28, 1986. Comments on this notice will be received until August 11, 1986.

**ADDRESS:** Comments may be mailed to Rolland A. Schmitt, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way, NE., Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

**FOR FURTHER INFORMATION CONTACT:** Rolland A. Schmitt (Regional Director), 206-526-6150.

**SUPPLEMENTARY INFORMATION:** The ocean salmon fisheries off Washington, Oregon, and California are managed under a framework fishery management plan (50 CFR Part 661). The framework regulations were modified by an emergency rule (51 FR 18451, May 20,

1986) which, among other things, established inseason management provisions for the 1986 season.

The emergency rule authorizes inseason adjustments to management measures if the adjustments are consistent with fishery regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation schemes in the framework amendment. In addition, all inseason adjustments must be based on consideration of the following factors: predicted sizes of salmon runs; harvest quotas and hooking mortality limits for the area and total allowable impact limitations if applicable; amount of recreational, commercial and treaty Indian catch for each species in the area to date; amount of recreational, commercial, and treaty Indian fishing effort in the area to date; estimated average daily catch per fisherman; predicted fishing effort for the area to the end of the scheduled season; and other factors as appropriate.

The all-species recreational fishery from Cape Falcon to Cape Blanco, Oregon, opened on May 24, 1986 with a harvest quota of 189,000 coho south of Cape Falcon. The fishery was closed on Sunday and Monday of each week beginning July 27, 1986 (51 FR 26900 citation). Projected landings south of Cape Falcon totaled 144,000 coho through July 26, 1986. At current fishing rates the recreational fishery would harvest its coho quota and close before the Labor Day weekend. This two-day-per-week closure will not curtail the progress of the fishery sufficiently to allow the fishery to continue through the Labor Day weekend.

The Regional Director consulted with the Director of the Oregon Department of Fish and Wildlife (ODFW) and the Chairman of the Pacific Fishery Management Council regarding a reduction in the bag limit from 6 salmon to 2 salmon in any 7 consecutive days. The ODFW Director confirmed that Oregon would manage the ocean recreational fisheries in state waters adjacent to this area of the fishery conservation zone in accordance with a revised bag limit.

After consideration of the factors listed above, the Secretary determined that a reduction in bag limit is consistent with criteria in the emergency rule, and therefore issues this notice to reduce the bag limit to 2 salmon in any 7 consecutive days in the recreational fishery from Cape Falcon to Cape Blanco, Oregon, until modified or rescinded.



This notice does not apply to other salmon fisheries which may be operating in other areas nor to other fisheries in the same area.

#### Other matters

This notice is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

#### List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: July 29, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-17435 Filed 7-30-86; 10:56 am]

BILLING CODE 3510-22-M

#### 50 CFR Part 674

[Docket No. 50694-5094]

#### High Seas Salmon Fishery Off Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of closure.

**SUMMARY:** The Secretary of Commerce (Secretary) closes one area of the fishery conservation zone (FCZ) to commercial salmon fishing off Southeast Alaska. This action is necessary to protect coho salmon returning to the northern inside waters of Southeast Alaska and some rivers coming out of Canada. The intent of this action is to ensure that adequate numbers of coho salmon return to their spawning grounds. This action complements similar actions on the commercial troll salmon fishery in waters managed by the State of Alaska.

**DATE:** This notice is effective at 0001 hours Alaska Daylight Time (ADT) July 30, 1986, and will expire at 2400 hours ADT on September 20, 1986, unless modified by a later notice. Public comments are invited until August 29, 1986.

**ADDRESS:** Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. During the 30-day public comment period, the data upon which this notice is based will be available for public inspection during the hours of 0800 to 1630 (ADT) Monday through Friday at the NMFS Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Aven M. Andersen (Fishery Management Biologist, NMFS), 907-586-7228.

**SUPPLEMENTARY INFORMATION:** This notice implements a provision of the regulations implementing the Pacific Salmon Treaty and the Fishery Management Plan for the High Seas Salmon Fishery off the coast of Alaska (FMP). The FMP was developed and amended by the North Pacific Fishery Management Council. The regulations (50 CFR Part 674) govern the salmon fisheries in the FCZ off the coast of Alaska east of 175° East longitude. They were issued under section 7(a) of Pub. L. 99-5, the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 *et seq.*) and under section 305 of the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

Section 674.23 of the regulations provides that the Secretary may modify the fishing periods and fishing areas by publishing a notice in the *Federal Register*. Any such modification must be based on a determination by the Director of the Alaska Region of NMFS (Regional Director), that (a) the condition of any salmon species is "substantially different from the condition anticipated in the FMP", and (b) this difference requires a modification of the fishing times and areas to conserve adequately any salmon species. The regulations specify the factors the Regional Director may consider. The regulations also specify that the Secretary must consult with the Alaska Department of Fish and Game (ADF&G) before he modifies the regulations.

In view of these requirements, the Regional Director (acting on behalf of the Secretary) has consulted with ADF&G. Also, he has reviewed the information on the 1986 salmon fishery to date, has determined that some coho salmon stocks in 1986 are substantially different from the condition anticipated in the FMP, and has determined that this difference in stock condition requires that an area of the FCZ be closed to commercial salmon fishing as of 0001 hours ADT on July 30, 1986.

Information available at this time indicates that coho abundance is extremely depressed in the northern inside waters of Southeast Alaska. The Alaska Department of Fish and Game has been monitoring the troll fisheries in Icy Strait and upper Chatham Strait, the salmon gillnet fishery in the Taku River-Snettisham area, and the sport fishery in the Juneau area. These fisheries serve as indicators of the abundance of coho salmon moving to the northern inside fishing areas and spawning grounds. The present information on the harvests and catch-per-unit-of-effort in these fisheries indicate that serious

conservation problems (particularly, inadequate spawning escapement) could occur if coho abundance in these northern inside waters does not increase. For example, for the Taku-Snettisham drift gillnet fishery, the cumulative coho catch as of July 20 is less than 4,000 coho and the daily catch rate has shown no significant increase, whereas normally the cumulative catch would be about 20,000 and the catch rate would be increasing rapidly.

In sharp contrast to these northern inside fisheries, information from the commercial troll fishery in offshore waters, and from the gillnet and sport fisheries in the southern parts of Southeast Alaska indicate relatively strong runs of coho in those areas. The trollers in the offshore area north of Sitka are catching an average of about 80 coho per boat per day. The overall troll catch to date is considerably above the catch to date for both the 1985 season and the 1981-1985 average; coho catches by the gillnet fisheries in the southern areas are average or above average; and the coho catch per sport fisherman per hour at Ketchikan is considerably above that of 1985.

At this time, then, it appears that only those coho stocks migrating through Icy Straits to the northern inside areas appear to be weak. These stocks normally pass through the ocean area north of Cross Sound now being fished heavily by the trollers. Thus, the troll fishery in that area needs to be stopped until the picture becomes clearer.

Accordingly, the Regional Director has decided to close part of the FCZ north of Cape Cross. He is taking this action in conjunction with similar actions being taken by the ADF&G for waters under its jurisdiction. Specifically, he is closing the entire FCZ north of a line extending seaward due west (270° true) from Cape Cross (57°55.5' N. lat., 136°34.5' W. long.) to a line extending seaward on a course of 231° true from a point on the beach about 9 nautical miles northwest of Cape Fairweather located at (58°56.8' N. lat., 138°02.7' W. long.; about where Loran C line 7960-Y-29700 intersects the coast).

ADF&G is closing the State coastal waters inside this area of the FCZ, but is leaving waters of North Inian Pass, Icy Strait, and Lisianski Inlet open to fishing to help in monitoring the passage of coho through those areas.

The Regional Director and ADF&G have closed the above areas because the closures should give considerable protection to southward migrating coho that will enter Icy Strait through Cross Sound, but will interfere little with the